THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 10747 of 1997

DATE: 13-02-2007

Between :

S.Kanaka Mahalakshmi

… Petitioner

And

The Revenue Divisional Officer,
Kamavarapukota Mandal.
West Godavari District and 2 others.

… Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 10747 of 1997

ORDER:

The petitioner, who claims to be the absolute owner and possessor of Ac.7.70 cents of land situated in R.S.No.174/2, 174/3 and 173/4 of Sagipadu Village, Kamavarapukota Mandal ,East Godavari District, filed O.S.No.61 of 1989 on the file of the Vacation Judge, West Godavari, Eluru, alleging that the third respondent herein was interfering with her possession. An order of temporary injunction was granted by the Civil Court on 29-05-1989. Subsequently, the third respondent filed a separate suit, being O.S.No.70 of 1989, in the same Court and an *ex parte* injunction was granted in his favour in I.A.No.1797 of 1989. The petitioner filed an application, being I.A.No.1832 of 1989, to vacate the said order which was dismissed by the Civil Court by order dated 01-06-1989. However, the appeal, being A.A.O.No.922 of 1989, filed by the petitioner was allowed by this Court on 06-09-1989 and the temporary injunction granted in favour of the third respondent was set aside and the matter was remanded for fresh consideration. Subsequently, both the suits were transferred to the Sub-Court, Eluru, with the consent of both the parties. The petitioner claimed that by virtue of the order of temporary injunction dated 29-05-1989 in her suit i.e. O.S.No.61 of 1989, she has been continuing in possession and enjoyment of the land in question. It is pleaded that though the said order of injunction was in operation,

the respondents were attempting to manipulate the records and for the said purpose attempted to take measurements of the land in question. Aggrieved by the said action, this writ petition was filed on 12-05-1997 seeking a declaration that the action of the respondents 1 and 2 in measuring the land in question in spite of the order of injunction granted by the Civil Court is arbitrary and illegal.

This Court, while directing Rule Nisi, by order dated 13-05-1997, granted interim direction that the respondent shall not interfere with the possession of the petitioner by making measurements in respect of the land covered by the order of injunction in O.S.No.61 of 1989 on the file of the Vacation Judge, West Godavari, Eluru, including Sy.No.173/4.

The said order continued to be in force through out and no counter-affidavit has been filed by any of the respondents opposing the petitioner's claim.

Having regard to the facts and circumstances of the case and in the absence of the counter-affidavit and particularly keeping in view the fact that the suits filed by the petitioner as well as the third respondent are pending before the Court below, without expressing any opinion on merits, the writ petition is disposed of with a direction to the respondents to act strictly in accordance with the orders, if any, passed by the Civil Court in the suits pending. No costs.

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G. ROHINI, J.

Dt. 13-02-2007
KLP